

**STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON
PROPOSED BILL 5733, AN ACT CONCERNING ACCESS TO
A CHILD'S DEATH CERTIFICATE**

February 22, 2013

The Freedom of Information Commission would like to take this opportunity to comment on Proposed Bill 5733, An Act Concerning Access to a Child's Death Certificate.

The FOIC is sympathetic to the desire to protect families of deceased minors. However, the Commission notes that the most sensitive information surrounding a minor's death, or any death, is already exempt from mandatory disclosure. For example, the most explicit and/or graphic medical information surrounding a death is located not in death certificates, but in autopsy reports. Autopsy reports are by and large unavailable to the general public by virtue of the medical examiner's statute, Conn. Gen. Stat. Sec. 19a-411.

Similarly, the legislature has already provided that much information on death certificates, specifically, social security number, occupation, business or industry, race, Hispanic origin if applicable, and educational level, is not available to the general public, pursuant to Conn. Gen. Stat. Sec. 7-51a(c), for all deaths occurring after July 1, 1997. Moreover, under current law, uncertified copies of death certificates for deaths occurring in the last 100 years are only available to researchers and to state and federal agencies approved by the Department of Public Health under Conn. Gen. Stat. Sec. 7-51a(a). It should be noted, however, that certified copies are available to the public.

The remaining information on a death certificate, including time, place and cause of death, is limited and clear-cut. This basic information has always been publicly available as a vital record. The proposed bill will forever prohibit the public from accessing these vital records if disclosure would "likely cause undue hardship for the family of the child."

Beyond these general comments, the FOIC is concerned about the subjective nature of the proposed statutory language. It would undoubtedly lead to differing results depending on which public official is charged with making the determination. What is the standard for "likely to cause undue hardship?" How is it to be quantified or applied by the many registrars of vital statistics across the state? The discretionary aspect of the proposed bill could lead to abuse of that discretion in the future.

Further, this restriction seemingly has no time limit. Thus, presumably, if the decision is made by a registrar this year to restrict access, does that mean that fifty years from now the certificate remains out of the public domain? The FOIC notes that even in situations where the death of a child occurs while the victim is in state custody and under the protective mantle of the state – a governmental failure of the most fundamental kind - there would be no access to the basic information described above for all time under the proposed language.

Current law already provides very broad exemptions to public disclosure of medical examiner findings, and limits to the amount of publicly disclosable information on death certificates. The minimal information currently available on death certificates should remain open to the public.

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